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VIA ECF & REGULAR MAIL

October 6, 2011

Hon. Frederic Block
United States District Court, EDNY
225 Cadman Plaza East
Brooklyn, New York 11201

**RE: Zimmerman, et al. v. Poly Prep, CDS, et al. - 09 Civ. 4586 (FB) (CLP):
Plaintiffs' Withdrawal of Count VII of the Second Amended Complaint**

Dear Judge Block:

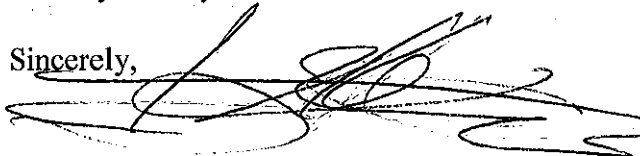
I write to notify the Court that Plaintiffs hereby withdraw Count VII of the Second Amended Complaint, dated July 14, 2011. Said count is labeled "Fraudulent Concealment Based Upon Spoliation, Fabrication, and/or Distortion of Evidence," and was pled pursuant to paragraphs 448-462 of the Second Amended Complaint.

Kindly be advised that the withdrawal of Count VII should not be construed in any way to withdraw, revoke, or limit Plaintiffs' motions: (1) to invoke the crime-fraud exception to the attorney-client and work product privileges, and (2) to impose fraud upon the Court sanctions against Defendants and Defendants' counsel. Each of these referenced motions has been fully briefed and is now pending before the Hon. Cheryl L. Pollak.

Finally, the Second Amended Complaint, except as stated herein, remains in full force and effect.

Thank you for your attention to this matter.

Sincerely,



KEVIN THOMAS MULHEARN (KM2301)

KTM/sar

cc: Hon. Cheryl L. Pollak
Jeffrey I. Kohn, Esq.
Harry Petchesky, Esq.

Concepcion A. Montoya, Esq.
David G. Trachtenberg, Esq.